

## **CHAPTER 8: EXPECTATIONS AND COMMITMENTS FOR PLAN IMPLEMENTATION**

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***What expectations are requested of federal and state governments and other non-local government entities in exchange for implementation of the plan by local governments?***

***What type and level of commitments are recommended for local governments to implement the plan?***

### **Introduction**

Implementation of the Chinook Salmon Conservation Plan will offer many benefits to both fish and humans. (See Chapter 1 for a full discussion of benefits.) But to ensure implementation, local governments will need to offer some level of commitment. In exchange for these commitments, local governments will have expectations for other entities. In particular, local governments hope to negotiate potential benefits and assurances with the federal and state governments. In addition, there are potential actions that federal and state agencies, the co-managers of the fisheries resource, and other non-local-government entities can choose to implement that will help benefit salmon and people in WRIA 8. Clearly, these benefits, expectations, and commitments are all intertwined and interconnected. There will need to be a dialog among appropriate parties to define and refine the final commitments and expectations that will benefit salmon recovery. In this proposed plan, the Steering Committee offers recommendations in both areas to kick-start the discussion.

Local jurisdictions and stakeholders in the Lake Washington/Cedar/Sammamish Watershed (WRIA 8) have a strong history of working together to conserve salmon habitat. The broad level of commitment that already exists can be shown in the following three examples. First, 27 local governments in the watershed are finishing their fourth year of a five-year interlocal agreement to jointly fund planning for protection and restoration of salmon habitat across the watershed. Second, local jurisdictions and the U.S. Army Corps of Engineers have undertaken studies that have resulted in dramatic improvements for salmon passage through the Hiram M. Chittenden Locks and are conducting a feasibility study for projects that will improve habitat along the Sammamish River, the Cedar River, and other key river and creek corridors. Third, local governments have designated King Conservation District grants to fund shared watershed priorities through habitat projects, technical studies, and stewardship opportunities. But the WRIA 8 partners know there is more to be done to help support salmon recovery and that the participation of other entities can help this is to occur.

For the WRIA 8 salmon plan to come to life, the Steering Committee recommends that local governments and participating stakeholders make some type of commitment to implement actions proposed in the plan. Commitment can come in several forms and at varying levels. Before making any commitment, potential implementers will need to evaluate the actions to which they are committing. Potential implementers will want to know what benefits they will receive if they do make a commitment and what federal and state agencies can offer to support such commitments. This will continue to be an iterative discussion among the WRIA 8 Steering Committee, WRIA 8 Forum, local governments, regulating agencies, citizens, businesses, Puget Sound Shared Strategy, and other interested partners leading up to plan approval and ratification.

### **Benefits to Salmon and the Public for Implementing the Plan**

There are many types of benefits that will and can accrue from implementation of the plan, from supporting Chinook salmon recovery to cleaner water for public health to possible legal assurances from the regulating agencies. Before asking WRIA 8 partners to make commitments to take action and to spend resources, it makes sense to review briefly what benefits can come from implementing this plan. A later section of this chapter (Expectations for Potential Benefits that Could Be Negotiated with Regulating Agencies) offers a more focused consideration of expectations that the Steering Committee has suggested could be negotiated with regulating agencies in exchange for commitments from local governments.

The Steering Committee recognized many benefits in their original Mission and Goals Statement (see Chapter 1). During the development of the draft plan, the WRIA 8 Steering Committee has had further discussions on the benefits they would like to see for salmon, the public, and implementing entities. Foremost among these are:

- Healthy salmon populations and habitat
- Ecosystem health, including species diversity, maintenance of native species, and water quality
- Legacy for future generations, including commercial, tribal, and sport fishing and quality of life, which includes cultural heritage
- Legal assurances from federal and state governments to local governments in exchange for commitments to implement plan.

A fuller discussion can be found in Chapter 1 on benefits of plan implementation.

### ***What expectations are requested of federal and state governments and other non-local government entities in exchange for implementation of the plan by local governments?***

The Steering Committee suggests that in exchange for making commitments to implement the plan, local governments may want to seek to negotiate benefits and legal assurances with federal and state regulating agencies. One avenue to start that discussion is through the Puget Sound Shared Strategy.

The Puget Sound Shared Strategy is a collaboration among several levels of government, including federal agencies responsible for administering the Endangered Species Act, the state, and the tribes, as well as other stakeholders. Shared Strategy intends to develop a recovery plan at the Puget Sound scale that incorporates the WRIA 8 plan, similar efforts from groups in other watersheds, and plans for harvest and hatchery management from the co-managers of the fisheries resource (i.e., the tribes and the state). This intergovernmental collaborative development of the recovery plan for a listed species is unique in the country. Shared Strategy appears to be the venue through which the regulating agencies will engage in plan review and discussion of legal and other assurances and benefits for local governments. Because local governments are participating in the planning, the Steering Committee recommends that they set forth requests and expectations for what might be appropriate assurances and benefits in exchange for supporting the recovery plan that the Endangered Species Act requires the federal government to develop.

In addition, local governments alone will not have the resources nor the opportunity to fully protect and restore Chinook salmon habitat in WRIA 8. Therefore, the Steering Committee recommends that the implementation partnership will need to extend throughout the public sector to the private and non-profit sectors as well in order to reach

the ultimate goal of salmon recovery. The comprehensive action lists and the action start-lists (see Chapters 9 in this volume and 10-14 in Volume II) and the recommendations on monitoring and measures (see Chapter 6) propose actions to benefit salmon habitat that could be implemented by federal and state agencies, the co-managers, non-profit organizations, developers, businesses, landowners, and citizens.

### **Expectations for Potential Benefits that Could Be Negotiated with Regulating Agencies**

It is not clear at this time exactly what assurances -- whether legal, funding, regulatory, or other -- the federal government could or will provide for implementation of salmon conservation plans at the watershed level. During the last several years, NOAA-Fisheries has expressed a general interest in providing some form of legal assurance in return for an "approved" watershed plan, but it is still unclear at this time what such assurances would be. In the event that NOAA-Fisheries is able, the Steering Committee is proposing here some assurances that WRIA 8 partners would like to see. (See Appendix E titled "Assurances Available Under the Endangered Species Act" for background on legal assurances available from the federal government.) Because the federal and state regulating agencies and the co-managers are participating in the Puget Sound Shared Strategy, this may be the appropriate forum where the discussion on these proposed assurances can start.

The Steering Committee does not expect WRIA 8 partners to execute an Incidental Take Permit (Section 10(a) of the Endangered Species Act) that would require a formal contract with the federal government for specific actions spelled out in a Habitat Conservation Plan. However, the Steering Committee recommends several ways the federal and state governments could reward commitments from local jurisdictions and others to implement the plan. These include:

- Incentives such as more timely responses from permitting agencies for review of plan actions
- Endorsement by the federal and/or state government of the plan actions
- Standing of the federal government with the local jurisdictions should there be legal challenges
- Acceptance of the science that is the foundation of the plan.

The Steering Committee recognizes that there may also be new types of legal assurances that the federal government could develop and offer as well. In addition, it would be useful to get agreements and specificity from federal and state governments on items such as management of harvest and hatcheries, delisting criteria, and rewards and incentives for implementation.

The Steering Committee proposes that assurances and grants in return for commitments to implement the plan may be appropriate through federal and state laws and programs other than the Endangered Species Act, e.g., under the Clean Water Act and through National Pollution Discharge Elimination System stormwater permits. The state could take into account the tangible results of plan implementation that support meeting the requirements of other laws and regulations such as through updates of critical areas ordinances, comprehensive plans, and zoning ordinances required under the Growth Management Act and through shoreline master plans required under the Shoreline Management Act. Future federal and state transportation and infrastructure planning and projects should also reflect salmon habitat needs and incorporate actions and guidance from the WRIA 8 plan. In fact, the state could implement or fund actions recommended in this plan as mitigation for projects such as the widening of Interstate 405, the

## Chapter 8: Expectations and Commitments for Plan Implementation

rebuilding of Highway 520 Evergreen Point Floating Bridge, and other transportation improvements that will arise in the next 10 to 20 years.

In addition, the Steering Committee recommends that opportunities to receive federal and state grants through the Salmon Recovery Funding Board process could be linked to plan implementation, and that other grants such as the Centennial Clean Water Fund and the Washington Wildlife and Recreation Program could offer bonus points for projects that implement the plan.

Prior to the current requirement to develop the Puget Sound-level recovery plan, the federal and state governments have worked closely with local governments to shape and develop land use and promote changes historically in land cover in the WRIA 8. For example, as discussed in Chapter 3, the hydrology of the watershed was severely altered through projects supported by the U.S. Army Corps of Engineers on the Cedar River, in Lake Washington, on the Sammamish River, and in building the Ship Canal and Hiram M. Chittenden Locks. Federal and state agencies have encouraged and responded to local development by criss-crossing the watershed with highways, bridges, and railroads that have had a major impact on salmon habitat. Therefore, Steering Committee members suggest that as a result, the federal and state governments also have a long-term role to play and resources to provide to help recover salmon habitat in WRIA 8. The Steering Committee proposes that these could be offered through funding, mitigation, assistance, or other appropriate means and could be included in discussions and negotiations on expectations for plan implementation.

### **Potential Actions to Be Implemented by Non-Local-Government Entities**

Local governments do not have the means nor the authority to implement all the actions necessary to protect and restore salmon habitat in WRIA 8. The Steering Committee recommends that recovery of salmon be undertaken by a broad partnership that reaches beyond local governments to include citizens, landowners, community groups, non-profit agencies, businesses, developers, public agencies, and the co-managers. The comprehensive action lists and the action start list as well as the proposal on monitoring and measures provide a wide range of recommendations that look to a wide range of implementers. The Steering Committee lists several examples: NOAA-Fisheries and the co-managers could conduct validation monitoring (i.e., are Chinook recovering at expected levels across the Puget Sound region?). The U.S. Army Corps of Engineers could continue its efforts at improving conditions and passage for salmon at the Hiram M. Chittenden Locks. The Washington Department of Transportation could further its work to minimize impacts of road widening and bridge building on salmon habitat. Non-governmental organizations could implement particular habitat improvement and stewardship projects. More developers could design and build low-impact developments. See Chapters 9 and 10-14 for more specifics.

### **Seeking Support from Non-Local Government Entities for Plan Implementation**

To acknowledge the need for participation by public agencies, businesses, and non-governmental organizations in implementation of particular actions and monitoring tasks, the Steering Committee has suggested that it may be appropriate to seek a show of support from these entities such as through collaboration on lobbying Congress and the state legislature for funding, public-private partnerships, funding and assistance from foundations, plan endorsement at public review sessions, assistance with public outreach, and political support. Steering Committee members have noted that since junior taxing districts need to be in compliance with local governments, it can be

## Chapter 8: Expectations and Commitments for Plan Implementation

expected that water and sewer districts would implement the plan through contract relationships with utilities operated by local jurisdictions.

The Steering Committee has listed other possible tools to demonstrate support of plan implementation:

- Letters or memoranda of understanding from agency heads or program managers to formally consider the WRIA 8 plan as guidance when fulfilling their related responsibilities
- Commitments from agencies and other partners to implement particular actions or monitoring tasks
- Legislative or regulatory changes as requested in specific plan actions
- Budget and work program line items to fulfill specific plan actions.

A show of support and participation by public agencies and other non-local-government entities could be sought through various means such as:

- Listing the actions and monitoring tasks requested in the draft plan
- Letters to appropriate potential partners from the WRIA 8 Steering Committee and Forum
- Negotiations with appropriate parties through the Puget Sound Shared Strategy process that includes federal and state regulating agencies, co-managers, local governments, and other partners
- Working with state legislators and members of Congress
- Requests from citizens, community groups, business, and other non-government partners to appropriate potential partners.

The Steering Committee does not mean either of these lists to be definitive; rather, the purpose is to generate ideas to build support for a broader WRIA 8 partnership necessary to protect and restore salmon habitat in the Lake Washington/Cedar/Sammamish Watershed.

### ***What type and level of commitments are recommended for local governments to implement the plan?***

As discussed in earlier chapters, the WRIA 8 plan has been developed through a collaborative effort among 25 cities, two counties, scientists, citizens, representatives from business and community groups, and public agencies. The planning work has been funded by 27 local governments, and the Steering Committee anticipates that local governments will have a key role in implementation of the plan as well.

The Steering Committee expects local jurisdictions and other WRIA 8 partners to make commitments to implement actions and monitoring over the 10-year plan horizon (discussed in Chapter 2). In addition, longer term actions (10-20 years out) may not have commitments now, but there needs to be a process to line up commitments in the future. In Chapter 2, the Steering Committee has proposed an organizational structure that would continue inter-governmental collaboration on plan implementation and allow WRIA 8 partners to work together to address future commitments.

Before commitments can be finalized, this plan will continue to evolve through the following stages: input and feedback received during the current public review process; discussion and approval by the WRIA 8 Forum in spring 2005; and review and ratification by local jurisdictions. As discussed earlier in this chapter, conversations and

negotiations with regulating agencies (possibly through Puget Sound Shared Strategy) for potential negotiated benefits and assurances will be critical to determining the type and level of commitments acceptable to local governments.

### **What Is Meant By Commitments**

Puget Sound Shared Strategy has defined commitment as “a statement of the willingness of an entity or person to implement an action or set of actions within a designated timeframe. . . Examples of ways to demonstrate commitments include:

- Past history of commitments -- what has already been done on behalf of salmon recovery?
- Clear action plan describing how and by whom selected projects will be implemented
- Budgeting for specific actions or projects
- Incorporating salmon recovery actions into local capital improvement projects
- Passing a formal resolution pledging to pursue salmon recovery goals
- Passing regulations that are consistent with local salmon recovery goals.”<sup>1</sup>

In this plan, the Steering Committee has set forth three main areas in which individual local governments will need to determine what role and commitment they want to make towards implementation. These three areas are:

- Continued regional collaboration on tracking, assessing, evaluating, and communicating implementation progress and securing funding (see Chapter 2)
- Implementation of actions at the landscape and site-specific levels proposed in the comprehensive and start lists (see Chapters 5, 9, and 10-14).
- Monitoring of individual actions and contributing data and resources to the evaluation at the larger scale (see Chapter 6).

The specifics of possible local government roles in each area are discussed in greater detail in the chapters cited.

### **Examples from Other Similar Planning Efforts**

It is useful to review briefly how other watershed and basin protection and restoration groups have chosen to structure commitments. The level and type of commitments cover a continuum from no formal commitments to signed concurrence plans. Starting at the low end of the continuum, implementation is informal and left to the discretion of individual implementers. At a step up on the continuum, implementers made commitments to coordinate with other agencies where needed to carry out actions. The next step shows allocation of existing funding, staff, and other resources through budgets and work programs. This demonstrates commitment without necessitating formal agreements. One step more formal is written implementation plans in which implementers individually or together specified how they would implement their actions. The high end of the commitment continuum lists signed or adopted concurrence plans in which implementers agreed to execute specified actions in their area or under their authority.

Because the plans reviewed here are in varying stages of ratification and implementation and because accountability has not always been considered, it has been difficult to do an analysis of which type of commitment has been most successful. Generally speaking, when no formal commitments followed plan commitment, implementation has been difficult to track and less successful, while the more formal or stronger the commitment, the more likely the plan is to be carried out.

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<sup>1</sup> Shared Strategy for Puget Sound, April 2004. Commitments and Conditions. Seattle, WA

## Chapter 8: Expectations and Commitments for Plan Implementation

### Expectations from Puget Sound Shared Strategy

Because Shared Strategy is the venue through which the regulating agencies are engaged in plan review, it makes sense to review what specifically they are seeking as commitments. Shared Strategy is looking for a description of “recommended actions for at least the next ten years, the likely entities carrying them out, and what it would take to make the commitment to implement them.”<sup>2</sup> Shared Strategy expects “statements of commitment . . . from local decision-makers by June 2005. These can be in the form of resolutions to pursue the broader, long-term goal of sustainable, harvestable runs (e.g., ‘We want salmon here and commit to search for creative solutions to achieve recovery goals.’) or in more specific form. For the 5-10 year timeframe, the [Shared Strategy] Development Committee will look for statements that describe specific actions, projects and funding (e.g., projects as part of capital improvement plans; habitat protection/restoration as part of growth management).”<sup>3</sup>

### Commitments from Local Governments

The Steering Committee looked at the following five options along a continuum of level of commitment. These are not mutually exclusive options.

1. Local governments implement plan as they choose; no formal commitments to actions or regional process	2. Local governments continue coordinated regional process, possibly through an interlocal agreement.	3. City/county councils pass resolutions to formally consider plan as guidance and the science conservation strategy (Chapter 4) as one resource for best available science for capital improvement projects, critical areas ordinances, comprehensive plan updates. NPDES pollution discharge permits, shoreline management plans, required under state law	4. City/county councils formally commit to implementing particular actions by signing concurrence plan or interlocal agreement. Actions could be undertaken: --By individual jurisdiction (e.g., specific habitat projects) --Cooperatively by sub-basin (e.g., joint hiring of basin steward) --Watershed-wide (e.g., collaborative analysis of effectiveness monitoring)	5. City/county councils ratify or adopt entire plan as policy and implement through local ordinances and capital improvement projects
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The Steering Committee determined that the first two options at the lower end of the continuum (no formal commitments and coordinated regional process) were insufficient. The Steering Committee saw the middle option of local government councils passing

<sup>2</sup> Ibid.

<sup>3</sup> Ruckelshaus, Bill, for the Shared Strategy for Puget Sound Development Committee, December 18, 2003. Attachment to letter to Larry Phillips, King County Councilmember and Co-Chair of the WRIA 8 Steering Committee. Seattle, WA



## Chapter 8: Expectations and Commitments for Plan Implementation

resolutions to formally consider the plan as guidance (3, above) as a minimum commitment to participate. Either of the last two options along the continuum – local government councils commit to implement particular actions or ratify/adopt the entire plan as policy -- were also favored. In addition, the Steering Committee strongly recommended that jurisdictions collaborate with each other and with stakeholders to lobby the federal and state governments for funding and assurances.

In general, the Steering Committee understood that the more assurances desired from the federal government, the stronger the commitments will need to be. As a corollary, the stronger the commitments implementers are willing to make, the more benefits and rewards they should accrue. The Steering Committee has suggested that level of commitment could vary by type of action, e.g., specific capital improvement projects could merit formal concurrence commitment while land use policies might be considered as guidance for implementation of policies and programs required under other laws.

The Steering Committee also discussed what accountability implementers should have and indicated a clear preference for using positive reinforcement rather than punishment, or as the saying goes, using carrots rather than sticks. After all, the Steering Committee noted, implementers will report progress, and those who choose not to implement will not have progress to report. In addition, the Steering Committee recommended that funding should still be available for implementation of plan actions to those who do not formally commit. However, it might be appropriate for there to be some bonus points available in grant opportunities to those who do formally commit.

Comments received during public review of the plan covered both ends of the spectrum, although more called for firmer commitments. These included requiring local governments to implement the plan by:

- codifying plan recommendations
- setting a minimum bar to be eligible for funding
- adopting regulations, incentives, and/or outreach before seeking more funding
- ensuring that local decisions regarding roads and development projects are consistent with the Plan
- signing formal interlocal agreements
- directing funding priorities for open space to plan implementation
- requiring a clear structure to show how implementation and enforcement will occur
- creating basin concurrency levels as for drinking water, traffic

At the other end of the spectrum, a few comments called for local governments to set their own priorities and have flexibility on how to implement plan.

### ***Next Steps***

As stated earlier, this is just the beginning of the discussion of expectations and commitments. The discussion will continue as the WRIA 8 Forum and local governments formally review the plan prior to approval and ratification. In addition, conversations will need to progress with the Puget Sound Shared Strategy, federal and state agencies, the co-managers, and other partners.

**References**

Shared Strategy for Puget Sound, April 2004. Commitments and Conditions. Seattle, WA

Ruckelshaus, Bill, for the Shared Strategy for Puget Sound Development Committee, December 18, 2003. Attachment to letter to Larry Phillips, King County Councilmember and Co-Chair of the WRIA 8 Steering Committee. Seattle, WA